

***NATIONAL WEATHER SERVICE INSTRUCTION 10-2005
NOVEMBER 11, 2003***

***Operations and Services
Forensic Services NWSPD 10-20***

HANDLING AND RELEASING ACCIDENT-RELATED WEATHER INFORMATION

NOTICE: This publication is available at: <http://www.nws.noaa.gov/directives/>.

OPR: OS52 (W. Presnell)

Certified by: OS5 (J. Lee)

Type of Issuance: Routine.

SUMMARY OF REVISIONS: This directive supersedes NWS Procedural Directive 10-2005 dated July 2, 2002. Major revisions include changing section 2.2 to indicate in the event local NWS office employees are faced with being subpoenaed for testimony in litigation not involving the U.S. Government, the NOAA's Office of General Counsel will be contacted.

Signed by _____ 10/28/03
Gregory A. Mandt Date
Director, Office of Climate,
Water, and Weather Services

Handling and Releasing Accident-related Weather Information

Table of Contents: Page

1.	Procedures for Releasing Accident-related Weather Information	2
1.1	Requests for Weather Data - General	2
1.2	Data Requests Handled by Forensic Services	4
1.3	Unauthorized Information	4
1.4	Statements	5
1.4.1	Handling of Requests for Statements	5
1.4.2	Preparation of Statements	5
1.5	Requests from the Forensic Services Manager	7
1.6	Responding to the News Media	7
1.7	Requests for Office Visits by Private Attorneys and Consultants	8
2.	Certification of Records	8
2.1	Types of Certification	8
2.2	Certification of Permanent Records	9
2.3	Authenticity of Certified Records in Court Cases	9
3.	National Weather Service (NWS) Charges for Mission Information and the Disposition of Collections	12
3.1	NWS Fees and Charges	12
3.2	Office Records	13
3.3	Disposition of Collections	13
3.4	Security of Funds	14

Exhibits:

10-2005-1	Sample of Written Statement	6
10-2005-2	WS Form D-32 for Local Certification	10
10-2005-3	Department of Commerce Form CD-64 for Certification	11

1. Procedures for Releasing Accident-Related Weather Information.

1.1 Requests for Weather Data - General. Requests for weather exhibits in connection with major accidents and suspected aviation or marine weather factor accidents involving fatalities normally come to National Weather Service Headquarters (WSH). In turn, WSH will provide instructions to the regional headquarters (RH) and NWS offices for additional action, as required. See sections 1.2 and 1.5, and NWS Instruction 10-2006, section 1.1.1, for exceptions and special procedures.

Occasionally, investigating Government agencies and private parties go directly to the RH or NWS office when requesting weather exhibits, particularly in connection with general aviation accidents, civil litigation, and insurance claims. In the interest of providing local user and/or expedited service, the RH or NWS office receiving the request should provide uncertified copies of weather information which are a matter of public record (e.g., surface observations, forecasts and warnings) if readily available on site, except as noted in this section and in section 1.2. If the information request appears to be in preparation for litigation or needs to be certified, the Forensic Services Manager at WSH and appropriate RH personnel should be notified immediately.

In most cases, forward requests for permanent-type records archived at the National Climatic Data Center (NCDC), or requests for non-certified service products (e.g., forecasts, warnings, pilot reports, buoy reports, surface observations as transmitted on the Advanced Weather Interactive Processing System) to:

National Climatic Data Center
151 Patton Avenue
Asheville, North Carolina 28801-5001
Telephone No. (828) 271-4800

The recommended handling of various specific types of information requested from NWS offices is listed below.

- a. Surface Observations Forms and Hard Copy of Automated Surface Observing System (ASOS) data - refer requests for certified copies to the NCDC.
- b. Radar Data - refer requests for copies of the Weather Surveillance Radar-1988 Doppler (WSR-88D) tapes, disks/cartridges, and/or hard copy images to the NCDC.
- c. Satellite Data (film loops or photographs) - refer to the NCDC.
- d. Sunrise/Sunset Tables - NWS should accommodate requests to examine and/or reproduce Sunrise/Sunset tables available at an NWS office as local resources permit. If certified copies are requested, the office should inform the customer the tables printed by the United States Naval Observatory bear an Observatory certification. NWS offices will not provide certification of such records. Customers whose requirements cannot be fully accommodated by the NWS office and/or require certified records for Court or otherwise should be advised to write to:

United States Naval Observatory
Astronomical Applications Department
3450 Massachusetts Avenue, NW
Washington, DC 20392-5420

The United States Naval Observatory telephone number should not be provided.

In addition, inquiries regarding the timing of astronomical events such as meteor showers or solar/lunar eclipses should be answered by referring the customer to sources within the community, i.e., colleges, observatories, planetariums.

e. Tide Tables - refer to:

National Ocean Service
Products and Services Division, N/OPS3
Predictions Team
1305 East-West Highway, Room 7115
Silver Spring, Maryland 20910

1.2 Data Requests Handled by Forensic Services. RH or NWS offices should contact the Forensic Services Manager before any action is taken by an RH or NWS office when there are any concerns or questions regarding a request for NWS records.

Requests for weather exhibits shall be referred to the Forensic Services Manager under any of the following circumstances.

- a. Compliance with the request requires the retrieval of data from more than one retention site and requires certification,
- b. The request, from a non-government party, is known or suspected to be related to a major aircraft or marine accident.
- c. The request is known or suspected to be related to litigation involving the Government.

The office receiving the request will notify the requester, in writing, of the action taken when it is determined a written request for exhibits will be referred to WSH. When the request is verbal, the requester should be instructed to forward a written request, itemizing the exhibits required, to the Forensic Services Program, WSH (see section 1.5).

1.3 Unauthorized Information. Personal views, opinions, or conjectures as to the cause of an accident or opinions concerning the quality of weather products and services possibly associated with the accident shall not be released publicly either verbally or in writing. Procedures for the release of written statements are covered in section 1.4.1.

The following are considered privileged information and are not generally furnished to the general public:

- inter- or intra-agency memoranda or letters;
- investigatory files compiled for law enforcement purposes;
- information related solely to the personnel rules and practices of any agency;

- personnel, medical, and similar files, the disclosure of which would constitute a clearly unwarranted violation of the Privacy Act; and
- memoranda, reports, and files prepared for litigation.

Note: Refer all requests for privileged information to the Forensic Services Manager for appropriate action.

1.4 Statements. It is normal procedure for Government officials investigating a major accident to request oral or written statements from persons who may have knowledge of weather conditions or services incident to the accident.

1.4.1 Handling of Requests for Statements. No written statements, narratives, or summary and aftercast reports shall be provided to offices, agencies, or organizations (government or public) outside the NWS without the approval of the Forensic Services Manager. The Forensic Services Manager will be immediately notified of any requests for oral or written statements coming directly from any source outside of the NWS.

In most cases, requests for NWS personnel statements related to transportation accident investigations will come from the National Transportation Safety Board (NTSB). The requests will be addressed to the Forensic Services Manager and passed on to the affected NWS employee through the appropriate RH Program Leader and NWS office manager. The NWS employee will complete and submit the statement as quickly as possible. The original and a second copy will be forwarded directly to the Forensic Services Manager. One copy will be forwarded to RH through the NWS office manager.

On occasion, personnel interviews are requested by the NTSB field investigators usually after an air carrier accident. The appropriate RH program leader will arrange such interviews. The NWS representative on the NTSB's investigation team or the NWS office manager, if there is no NWS member on the team, will attend. NWS personnel should make all reasonable effort to avoid the recording of their oral statements.

1.4.2 Preparation of Statements. Use Exhibit 10-2005-1 as a guide for the preparation of written statements.

The author will type or print a statement on plain bond paper. It should not be addressed to anyone. It will be dated and contain an identifying paragraph including the individual's name, address, occupation, and location of employment. The statement will contain only facts and devoid of opinions and conclusions. It should be written in the first person--"I am, I saw, I did, etc."

The statement should be clear and concise--with all pertinent facts in chronological order. Carefully identify all referenced weather information, equipment and/or operational procedures, and avoid acronyms. The statement will be considered along with other testimony and evidence in seeking the probable cause of an accident and the contributing factors. Additionally, personnel statements are frequently produced in litigation evolving from accidents, where they are viewed

S T A T E M E N T
Weather Forecast Office
Fort Worth, Texas
June 23, 1998

The following is a report concerning the accident involving aircraft N1027X at Dallas/Fort Worth International Airport (DFW), Texas. The accident occurred during the evening of May 16, 1998, at approximately 9:30 p.m. Central Daylight Time (CDT).

My name is John Doe. I am employed as a meteorologist at the Weather Forecast Office at Fort Worth, Texas. I was on duty as the aviation forecaster during the period from 4:00 p.m. to midnight CDT on May 16, 1998. My duties included the issuance of Aviation Terminal Forecasts (TAFs) for north Texas, including DFW.

I arrived on duty about 10 minutes before 4:00 p.m. I was briefed by the previous aviation forecaster on the weather conditions and trends, and what I might expect during my shift. After the briefing, I reviewed the current weather situation and the latest radar data, and checked the existing forecasts for any amendments that might be needed.

At about 5:45 p.m., I began preparing the routine TAF package valid for the period beginning 7 p.m. CDT (0000Z May 17th). The portion of the DFW TAF valid for the period from 7 p.m. to 11 p.m. included a forecast for winds from the southeast at 15 knots, visibility of greater than 6 statute miles and a cloud base of 25 hundred feet broken, with conditions temporarily lowering to a visibility of 2 miles in thunderstorms with light rain between 9 p.m. and 11 p.m.

Shortly after 8 p.m., the Weather Surveillance Radar-1988 Doppler (WSR-88D) indicated an intensifying area of thunderstorms to the northwest, moving towards the Dallas-Fort Worth metroplex area. At the same time we began to receive reports of heavy rain and gusty winds from amateur radio operators and phone calls from the public in the area of the thunderstorms. At 8:10 p.m., a Severe Thunderstorm Watch was issued by the Storm Prediction Center in Norman, Oklahoma, for much of northern Texas, including DFW. At 8:15 p.m., I began to amend the existing TAFs for DFW and other airports in the metroplex area. The amended TAF for DFW forecast a temporary condition of southwesterly winds of 25 knots gusting to 40 knots, a visibility of ½ mile in thunderstorms with heavy rain and a cloud base of 8 hundred feet during the period from 9 p.m. to 11 p.m. After sending the amended TAF, I observed the thunderstorm area approaching the metroplex area on the WSR-88D radar.

A thunderstorm began at DFW at 9:15 p.m. At 9:20 p.m., I received a special surface weather observation from DFW reporting gusty winds of 35 knots and a visibility of 1 mile in thunderstorms with heavy rain. Frequent cloud to ground lightning was reported in all quadrants. Shortly after 9:30 p.m., I received a call from the DFW observer notifying us that an aircraft mishap had occurred at the airport. At 10 p.m., the Fort Worth Air Route Traffic Control Center called to provide us with additional information.

At 11:45 p.m. the next duty aviation forecaster for the midnight shift arrived. I briefed him about the weather situation and provided him with the available information about the aircraft mishap. I left the office shortly after midnight.

(signed) John Doe
Meteorologist

Exhibit 10-2005-1: Sample of Written Statement

as the employee's most recent recollection while acting within an official capacity. Confine the information contained within the statement to functions and responsibilities relating to the NWS.

Opinions of any kind, including those on the probable cause of an accident, shall not be rendered.

The author is expected to sign the statement above his/her printed name and title.

1.5 Requests from the Forensic Services Manager. When a major accident occurs, the Forensic Services Manager may require immediate access to official weather records relating to the accident. Quick access to these records is essential to make preliminary weather information available to NTSB and other Government investigators and to effect a preliminary analysis of the extent of weather or weather products and services relating to the accident. On occasion, the Forensic Services Manager may request official records, including original WSR-88D Archive Level II tapes and/or Archive Level III disks/cartridges, be forwarded to the NCDC for expedited processing. Additionally, the Forensic Services Manager may request portions of the Archive Level III disk/cartridge surrounding the time of the accident be copied and forwarded to WSH as soon as possible. The appropriate RH will be advised of such requests as soon as possible.

The Forensic Services Program will transmit routine requests available at NWS offices by facsimile or telephone. The data are required for weather documentation packages assembled at WSH in response to requests received from Government investigation agencies (i.e., NTSB, Federal Aviation Administration, United States Coast Guard), the Department of Justice (DOJ), insurance companies, private attorneys or their consulting meteorologists, and from other miscellaneous segments of the general public. Unless otherwise requested, NWS offices will forward two certified copies of each weather exhibit to Forensic Services. The submitted data should be limited to the period specified in the request. The identification of the NWS office, and the time(s) and date of the data will be indicated on the front of each page. Under most circumstances, the data should be sent by first class mail, as soon as practicable, to:

National Weather Service Headquarters
Silver Spring Metro Center #2
ATTN: W/OS523, Forensic Services, 14th Floor
1325 East-West Highway
Silver Spring, Maryland 20910

NWS offices should not forward original records (in cases where reproduction cannot be accomplished locally) unless specifically requested to do so. When requested, the records should be sent by certified mail. If weather exhibits cannot be processed within 10 days after receipt of the request, WSH should be notified as to the reason and the estimated transmittal date.

1.6 Responding to the News Media. Following major accidents suspected to be weather related, an NWS office is often contacted by the news media and asked questions about the weather at the accident site, and specifically if warnings were in effect at the time. Whenever this situation arises, the NWS office manager or the person in charge of station operations at the time will field the questions. Regardless of who responds to the questions, no interpretation or speculation will be provided concerning the accident. The answers should be documented and made available to others on station to ensure consistency. Most of the time, the questions can be answered in a straightforward manner. There may be times, however, when information may be

misinterpreted. If this type situation should present itself, the following response to news media questions is recommended.

"All weather information applicable to the time and place of the referenced accident has been (or will be) made available to the National Transportation Safety Board. It would be inappropriate for me to comment on the questions asked before the Safety Board completes its investigation."

If the above approach is used and the media person persists and states that the information requested is a matter of public record, inform him/her that certified copies of the information can be obtained by submitting a written request to: WSH (ATTN: Forensic Services Manager).

1.7 Requests for Office Visits by Private Attorneys and Consultants. On occasion, an NWS office will be contacted by a private attorney, or a consulting meteorologist working for an attorney, requesting a visit or tour of the office facilities.

The Department of Commerce (DOC) has regulations (15 C.F.R. Part 15, Subpart B) governing testimony by employees, the production of documents, and the dissemination of official information in legal proceedings. The regulations require attorneys or their representatives to submit a written request for testimony, documentation, or official information in connection with potential or pending legal proceedings. A site visit to an NWS facility comes under the category of obtaining "official information."

Accordingly, when an NWS office receives a request for a visit from an attorney or his/her representative, the purpose of the visit should be ascertained, i.e.,

- Is the visit connected in any way to ongoing or potential litigation? If so, who are the parties to the case?
- Is the visit related to the investigation of an aircraft accident, marine casualty, severe weather event, or similar incident?

If the answer to any of the above questions is in the affirmative, or office personnel suspect such involvement, the proposed visit shall not be permitted until it has been discussed with the Forensic Services Manager, DOC's General Counsel's Office, or the National Oceanic and Atmospheric Administration's (NOAA) Office of the General Counsel.

2. Certification of Records.

2.1 Types of Certification. There are three basic types of certification.

a. Stamped (or Individual) - the certification of an individual record or document by the NWS office official. Note: The certifying official may certify only those records or documents issued by the NWS office. The certification may be typed, written, or stamped. It includes a certification statement, an inked signature, the signer's title, the office location, and the date of the record or document being certified. The importance of including the date on each

certification is self-evident. Do not include the date of certification. To facilitate reproduction, enter the certification directly on the front of each page of an exhibit. Each NWS office should obtain a rubber stamp in the following format.

This is a certified true copy of

weather records available at this

office for (date)

Signature

Title

Office

b. Group - used in lieu of the stamped certification in cases where a large volume of similar records is involved (e.g., several days of forecasts, etc.) or when original permanent-type records are submitted to the Forensic Services Manager. The certification is entered on the WS Form D-32 (see exhibit 10-2005-2) and affixed to the records.

c. Authentication (Certification by the Department of Commerce) - prepared at WSH on occasions when a stamped or group certification is not acceptable. A completed Form CD-64 (see exhibit 10-2005-3) affixed to the previously certified records furnished by the local NWS office represents DOC certification and authentication.

2.2 Certification of Permanent Records. The NCDC is the Custodian of Records and certifies records permanently archived at the NCDC. Such records include Surface Weather Observations forms, images obtained from WSR-88D radar tapes and disks/cartridges, and satellite-derived products. In addition, most climatological publications have a printed certification statement from the publisher and the Custodian of the Records. NWS offices shall NOT certify records scheduled for permanent archiving at the NCDC, NCDC publications, or copies thereof.

In the event local NWS office employees are faced with being subpoenaed for testimony in litigation NOT involving the U.S. Government, the NOAA's Office of General Counsel will be contacted. If a NOAA attorney is not available, employees may seek assistance from the DOC General Counsel or from the nearest Office of the United States Attorney, DOJ (see NWS Instruction 10-2006, section 2.2).

2.3 Authenticity of Certified Records in Court Cases. The United States Code (28 U.S.C. 1733) provides: properly authenticated copies or transcripts of any books, records, papers, or documents of any department or agency of the United States shall be admitted equally with the originals thereof (June 28, 1948, Ch. 646, Sec. 1, 62 Stat. 946, eff. September 1, 1948).

WS Form D-32
(01-90)
(PRES. BY WSOM D-90)

UNITED STATES OF AMERICA

UNITED STATES DEPARTMENT OF COMMERCE

Date _____

Station/Office _____

*I hereby certify that the attached is a true
copy of a National Oceanic and Atmospheric Administration Record.*

(Certifying Official)

Exhibit 10-2005-2: WS Form D-32 for Local Certification

FORM CD-64
(REV. 1-29-71)
PRESCRIBED BY
DAO 201-17

U. S. DEPARTMENT OF COMMERCE

Washington, _____, _____

I HEREBY CERTIFY that the annexed is a true copy of _____

on file in the _____

(Official Title)

I HEREBY CERTIFY that _____

who signed the foregoing certificate, is now, and was at the time of signing, _____

and that full faith and credit should be given his certificate as such.

IN WITNESS WHEREOF, I have hereunto subscribed my name, and
caused the seal of the Department of Commerce to be affixed this

_____ day of _____, two thousand
and one.

For the SECRETARY OF COMMERCE:

Certifying Officer

Exhibit 10-2005-3: Department of Commerce Form CD-64 for Certification

3. National Weather Service (NWS) Charges for Mission Information and the Disposition of Collections. The NOAA Directives Manual 21-25 provides policy and guidance for the collection of fees and charges for mission information. The type of mission information requests for which the NWS could assess charges are typically those involving copies or transcriptions of observations, forecasts, warnings, local climatological data, etc.

The schedule of fees and charges identified in section 3.1 are applicable to mission information requests processed by the NWS. They are not applicable to requests referred to the NCDC. The NCDC has established its own schedule of fees and charges. Additionally, the schedule is not applicable to requests identified as falling under the Freedom of Information Act (FOIA). Charges for data provided in response to an FOIA request are also listed in the NOAA Directives Manual 21-25.

3.1 NWS Fees and Charges. The charge for a mission type request will be the total of each of the applicable charges listed. All charges of \$10 or more should be paid by check, money order, or bank draft. The resultant charges may be waived if the total charge is \$2 or less. Also, in the interest of intergovernmental/interagency cooperation and public goodwill, all charges may be waived for:

- government agencies (federal, foreign, state, and local governments, but not local government-owned utilities);
- one-time or infrequent requests from nonprofit, public interest, or news media organizations; and
- one-time or infrequent requests from the general public acting as individual private citizens taking less than about 15 minutes of staff time to fulfill.

The NWS schedule of fees and charges is as follows:

(1) Record Searches, Retrievals, Transcriptions, or Tabulations:

Manual searches: \$5 per quarter hour (or portion of a quarter hour) of individual staff work. This basic rate is the minimum and may be increased if actual staff labor costs are higher.

Computerized record searches, transcriptions, or tabulations:

75 cents per minute (or portion thereof) to cover the cost of computer, operator, and clerical time.

(2) Copies:

Xerographic or similar type copies (Xerox or similar copier) or copies direct from a microfiche reader-printer: 50 cents per single-side page up to 14x18 inch size, \$2 per page for larger sizes. The charge for the requester's use of the office copier (xerographic or similar process) to copy NWS documents or material is 15 cents per single-side page copy.

Photo copies: \$4 per copy up to 8x10-inch size, \$7.50 per copy up to 20x24-inch size (or actual cost if actual cost is greater).

Magnetic Tape Copy: The charge for direct one-for-one copies for magnetic tape is \$85 per reel, except for high-density (6250 bpi) tapes. The charge for high density tape copies is \$140 per reel. If NOAA/NWS furnishes the blank tapes, the cost of the blank tapes is added to the copy charge.

Satellite Data: The charges for copies of specific satellite data are those established by the NCDC, Satellite Data Services Division. No charge will be made for surplus satellite depictions available at NWS offices.

Printed copies and publications (e.g., Local Climatological Data, etc.): The charge will be as printed on the latest edition of the document or publication, or as stated in a price list issued by the office preparing the publication.

(3) Mailing: The actual cost of packing, postage, and insurance if it exceeds \$1.

(4) Certification and Authentication: All certification and authentication charges are in addition to the search, copy, and mailing charges. Most climatological publications have a printed certification from the Custodian of the Weather Records (NCDC is the custodian). The certification charge is included in the price of the publication.

Stamped (or Individual) Certification: A charge of \$3 will be made for each signature.

Group Certification: A charge of \$20 will be made for each WS Form D-32 affixed to a group of records.

Authentication (Certification by the DOC): A charge of \$25 will be made for each authentication action.

(5) Rush Charge: A \$30 fee will be added to customary charges in circumstances where documentation requests require an extraordinary response time.

3.2 Office Records. An office record will be maintained of all collections. This record will include: (1) date payment received, (2) total amount of the payment, (3) the payer, (4) purpose of payment, e.g., copies of observations, local climatological data, etc. (may be consolidated into one entry), and (5) the date the check or money order is forwarded to the Administrative Support Center (ASC).

For collections made for searches, copies, publications, and certification, subsequent disbursement by the ASC will be sent to: Treasury, Miscellaneous Receipts, MO3220.

3.3 Disposition of Collections. Checks should be made payable to "NOAA, National Weather Service" and forwarded to the appropriate ASC within 30 days of collection by the NWS office.

NWS offices should discourage payment by cash. Cash will be converted to money order or check for mailing to the ASC. NWS offices should place an interim receipt in a safe or other secure container to account for the cash converted to money order or check. Copies of the money order receipts and/or canceled checks involved will be kept for one year. Money order fees should be submitted to the ASC through the NWS office manager for reimbursement.

NWS offices will forward cash collections of \$50 or more to the ASC within 30 days of collection. Small cash collections may be held and forwarded quarterly or when the total collections on hand exceed \$50, whichever occurs first. To reduce handling costs, individual collections should be consolidated into one disposition so long as the disposition time limits are met.

All collections forwarded to the ASC must be accompanied by a copy of the office record or a covering memorandum showing: (1) the date of the collection(s), (2) the amount of the collection(s), and (3) the purpose of the collection(s). The ASC should be instructed to forward the collection(s) to the United States Treasury. Note: No organization code or task number should be included.

3.4 Security of Funds. Section 4 of the NOAA Cashier's Handbook contains instructions for the proper safeguarding of funds. NWS office managers will ensure there is a strict internal accounting and safeguard of all local collections and funds.